

<sup>2</sup> The Board notes that, following the July 29, 2021 decision, OWCP received additional evidence. However, the Board's *Rules of Procedures* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

### **FACTUAL HISTORY**

On April 28, 2017 an employing establishment official, on behalf of appellant, then a 45 year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on April 15, 2017 appellant was injured in a motor vehicle accident, which resulted in head trauma, contusions, and soft tissue damage while in the performance of duty. OWCP accepted the claim for multiple fractures of the left ribs, traumatic subarachnoid hemorrhage without loss of consciousness, cerebral infarction due to unspecified collusion or stenosis of right anterior cerebral artery, aneurysm of other specified arteries, cerebral aneurysm, nonruptured, and contusion of left lower leg. It paid appellant wage-loss compensation on the supplemental rolls, commencing May 30, 2017, and on the periodic rolls, commencing June 25, 2017.

Over time, OWCP periodically requested that appellant submit financial disclosure statements (Form EN1032), which solicited information about her employment, volunteer work, dependent(s) status, receipt of other federal benefits and/or payments, and third-party settlements.

On June 9, 2021 OWCP advised appellant that she was required to fully answer all questions on the enclosed EN1032 form and return it within 30 days or her benefits would be suspended. It mailed the notice to her last known address of record. No response was received.

By decision dated July 29, 2021, OWCP suspended appellant's wage-loss compensation benefits, effective August 15, 2021, due to her failure to submit the EN1032 form, as requested. It advised that, if she were to complete and return the form, her wage-loss compensation benefits would be restored retroactively to the date of suspension.

### **LEGAL PRECEDENT**

Section 8106(b) of FECA authorizes the Secretary of Labor to require a partially disabled employee to report his or her earnings from employment or self-employment, by affidavit or otherwise, in the manner and at the times the Secretary specifies.<sup>3</sup>

Under section 10.528 of OWCP's implementing federal regulations, an employee in receipt of compensation benefits must complete an affidavit as to any work or activity indicating an ability to work, which the employee has performed for the prior 15 months.<sup>4</sup> If an employee who is required to file such a report fails to do so within 30 days of the date of the request, his or her right to compensation for wage loss is suspended until OWCP receives the requested report. At that time, OWCP will reinstate compensation retroactive to the date of suspension if the employee remains entitled to compensation.<sup>5</sup>

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<sup>3</sup> 5 U.S.C. § 8106(b).

<sup>4</sup> 20 C.F.R. § 10.528. *See also* *R.B.*, Docket No. 20-0176 (issued June 25, 2020); *A.H.*, Docket No. 15-0241 (issued April 3, 2015).

<sup>5</sup> *Id.* *See also* *J.M.*, Docket No. 20-1310 (issued April 21, 2021); *P.M.*, Docket No. 16-0382 (issued May 19, 2016).

### ANALYSIS

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective August 15, 2021, due to her failure to complete an EN1032 form as requested.

On June 9, 2021 OWCP provided appellant with the EN1032 form and advised that federal regulations required her to complete the form and answer all questions concerning her employment or earnings. It properly notified appellant that, if she did not completely answer all questions and return the form within 30 days, her benefits would be suspended. The record reflects that OWCP's letter was sent to appellant's last known address of record and there is no indication that it was returned as undeliverable.<sup>6</sup> Under the mailbox rule, a document mailed in the ordinary course of the sender's business practices to the addressee's last known address is presumed to be received by the addressee.<sup>7</sup>

The record indicates that appellant failed to timely submit an EN1032 form within 30 days of OWCP's request. As OWCP was paying appellant wage-loss compensation on the periodic rolls she was, therefore, required to fully complete and submit the EN1032 form in a timely manner.<sup>8</sup> Appellant's failure to file an EN1032 form within 30 days properly resulted in the suspension of her wage-loss compensation. Thus, the Board finds that OWCP properly suspended her wage-loss compensation benefits, effective August 15, 2021, pursuant to 20 C.F.R. § 10.528.<sup>9</sup>

### CONCLUSION

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective August 15, 2021, for failure to submit a completed EN1032 form as requested.

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<sup>6</sup> See *J.H.*, Docket No. 20-0785 (issued October 23, 2020); *Kenneth E. Harris*, 54 ECAB 502 (2003).

<sup>7</sup> *Id.*

<sup>8</sup> See *R.S.*, Docket No. 20-0580 (issued September 14, 2020); *A.S.*, Docket No. 17-1530 (issued November 7, 2017).

<sup>9</sup> See *R.B.*, *supra* note 4.

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 29, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 28, 2022  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board